

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JAYLA ALLEN, DAMON JOHNSON,  
TREASURE SMITH, and THE  
PANTHER PARTY,  
*Plaintiffs,***

**V.**

**Civil Action No. 4:18-CV-3985**

**WALLER COUNTY TEXAS; THE  
WALLER COUNTY  
COMMISSIONERS COURT; JUDGE  
CARBETT “TREY” J. DUHON III, in  
his official capacity as the Waller County  
Judge; and CHRISTY A. EASON, in her  
official capacity as the Waller County  
Elections Administrator,  
*Defendants.***

## **DEFENDANTS' RESPONSE TO THE COURT'S ORDER TO SHOW CAUSE**

TO THE HONORABLE CHARLES ESKRIDGE, UNITED STATES DISTRICT JUDGE:

In its Order to Show Cause of February 27, 2020, the Court requested Defendants' position as whether their recently filed motion for summary judgment (Doc. 73) moots or supersedes their earlier-filed motion to dismiss Plaintiffs' First Amended Complaint pursuant to Federal Rule 12(b)(6) (Doc. 51).

Defendants respectfully respond that their summary judgment motion does not moot or supersede the motion to dismiss, but instead provides an alternate basis on which the Court may dispose of Plaintiffs' claims. Both motions present separate live issues—the threshold question of pleading sufficiency and the related, though distinct, question of the absence of a genuine issue of material fact in the evidence—that are ripe for

consideration by the Court. Should the Court grant either motion, it would resolve all claims against all parties, and the remaining motion become moot at that time.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

This is to certify that on March 5, 2020, a true and correct copy of the foregoing document was served on all counsel of record via the electronic case filing system of the United States District Court for the Southern District of Texas.

/s/ Gunnar P. Seaquist  
Gunnar P. Seaquist